

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

THOMAS A. MEISTER, ET. AL.,

Civ. No. 06-1288 (PJS/LIB)

Plaintiffs,

v.

REPORT & RECOMMENDATION

NEULAN D. MIDKIFF, ET. AL.,

Defendants.

The present case was filed on April 4, 2006. (Docket No. 1). An administrative stay was ordered on September 5, 2006. (Docket No. 14).

On June 23, 2011, the Court issued an order lifting the stay in this case and directing the Plaintiffs to:

- A. Notify the Defendants that within 21 days thereof they are required to answer, otherwise respond to the Complaint, or move for an extension of time to do so;
- B. Advise the Court in writing of any good cause to the contrary; or.
- C. File an application for entry of default unless the required pleading is filed within 21 days of the notice provided for in paragraph 2A.

(Docket No. 41). The Court further ordered that:

Unless counsel for Plaintiff demonstrates compliance with this order to the Court within 30 days of today's date, it will be recommended to the District Court that this case be dismissed for lack of prosecution.

Id.

On July 22, 2011, one of the Plaintiffs, Fred. J. Macalus, Sr., filed a letter with the Court requesting that it give the Plaintiffs 30 additional days to comply with the Court's June 22 Order so that they could undertake additional fact-finding. (Docket No. 42). The Court granted the

request on July 25, 2011 giving the Plaintiffs until August 25, 2011 to comply with its June 22 Order. (Docket No. 43).

The August 25, 2011 deadline has since passed and no further action has been taken in this case. The Defendants have not filed an answer or responsive motion, and Plaintiffs have not filed an entry of default against the Defendants, nor have they advised the Court of any good cause for such failure.

As a consequence, the Court finds that the Plaintiffs have failed to abide by the terms of the Court's June 23 and July 25 Orders. Since the Court has forewarned Plaintiffs of the potential consequences for their failure to abide by the Court's orders, the Court recommends that this action be dismissed for failure to comply with the Court's June 22 and July 25 Orders, and for lack of prosecution.

Based on the foregoing and all of the files, records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be dismissed without prejudice for failure to comply with the Court's Orders of June 23 and July 25, and for lack of prosecution.

DATED: September 12, 2011

s/Leo I. Brisbois
LEO I. BRISBOIS
United States Magistrate Judge

NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties **by September 26, 2011**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for

each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Court of Appeals.